

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House  
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**FISCAL IMPACT STATEMENT**

**LS 7164**

**BILL NUMBER:** HB 1329

**DATE PREPARED:** Feb 24, 2002

**BILL AMENDED:** Feb 21, 2002

**SUBJECT:** Public Water and Wastewater and the Environmental Assistance Authority.

**FISCAL ANALYST:** Bernadette Bartlett

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**FUNDS AFFECTED:** ☒ **GENERAL**  
☒ **DEDICATED**  
**FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** (Amended) This bill permits a political subdivision to receive financial assistance from the Wastewater Revolving Loan Fund and the Supplemental Drinking Water and Wastewater Assistance Fund for certain nonpoint source pollution reduction projects. The bill establishes reduced rate loans to private entities for those projects financed through those funds. It limits the amount available from each fund for those purposes.

The bill adjusts the applicability of deadlines for action by the Department of Environmental Management on certain environmental permit applications. The bill allows refunds of permit application fees under certain circumstances. It requires the Department to report to the Environmental Quality Service Council (EQSC) on the use of permit fee revenue.

This bill also changes references to "public water supply" in the Indiana Code to "public water system" to conform to federal environmental law. It also repeals the definitions of "public water supply" and "water supply system".

This bill establishes the Environmental Assistance Authority to administer the Wastewater Revolving Loan Program, the Drinking Water Revolving Loan Program, and the Supplemental Drinking Water and Wastewater Assistance Fund and Program. The bill transfers powers and duties of the agencies that currently administer those programs to the authority. It expands the definition of "participant" for purposes of the Wastewater Revolving Loan Fund and Program to include entities permitted by law to enter into contractual arrangements for a purpose eligible for assistance under the federal Clean Water Act (in addition to political subdivisions). This bill also makes conforming changes. It also repeals provisions concerning certain duties with respect to the administration of the programs and funds that are transferred to the authority.

**Effective Date:** (Amended) July 1, 2002; January 1, 2003; July 1, 2003.

**Explanation of State Expenditures:** (Revised) SECTION 14 requires IDEM to report to the EQSC on the distribution of funds for the NPDES, solid waste, and hazardous waste programs of the Department and boards. The bill also requires an independent audit that will cost the agency approximately \$25,000 per year that would be taken from the Environmental Management Permit Operation Fund. Other costs associated with preparing and presenting data to the EQSC can be absorbed given existing resources.

This bill establishes the Indiana Environmental Assistance Authority, a separate body corporate and politic, constituting an instrumentality of the state, but not a state agency. On July 1, 2002, all powers, duties, agreements, liabilities, records, money, and other property of the Treasurer of State, the Department of Environmental Management, the Budget Agency, and the State Board of Finance with respect to the Wastewater Revolving Loan Program, the Drinking Water Revolving Loan Program (SRFs), and the Supplemental Drinking Water and Wastewater Assistance Program (Supplemental Fund) are transferred to the Indiana Environmental Assistance Authority.

A nine-member board of directors governs the authority. Each director is entitled to reimbursement for traveling and other expenses. The board must appoint and fix the duties and compensation of the executive director and program representative to take official action on behalf of the authority. The authority must also establish and maintain an office in Indianapolis.

The authority must administer, hold, and manage the Wastewater Revolving Loan Fund, the Drinking Water Revolving Loan Fund, and the Supplemental Drinking Water and Wastewater Assistance Fund. Money in the funds may be used to provide loans or other financial assistance to political subdivisions, as is current law, and to other participants, which expands the entities eligible for loans. Additionally, the bill provides for grants to participants for tasks associated with the development and preparation of long term control plans; use attainability analyses; and storm water management programs, which expands the uses of the funds. The authority may contract with the Department of Environmental Management, the Budget Agency, or any other entity or person for assistance in administering the programs and the funds.

The Authority may employ fiscal consultants; engineers; general counsel; special counsel; accountants; and any other consultants, employees, and agents. The Authority may fix and pay the compensation of persons employed from money available in the funds or available for the programs.

The proposal allows for use of the funds for nonpoint source pollution reduction projects, which could include reduction of nonpoint source pollution (1) from farm field runoff; (2) through restoration of wetlands; or (3) through replacement of failing sewage disposal systems with systems that include sewage treatment features.

A financial institution may apply to the Budget Agency for eligibility to receive certificates of deposit. A private entity may apply to a financial institution for a loan for a nonpoint source pollution reduction project.

For each state fiscal year, the Authority may use not more than 3% of the total amount available for financial assistance from the supplemental fund for the year for the combined purposes of (1) providing loans or other financial assistance to political subdivisions for nonpoint source pollution reduction projects; and (2) placing certificates of deposit for the nonpoint source pollution reduction project loan program. Not more than 25% of the financial assistance from the supplemental fund may be provided to participants that are not political subdivisions. Amounts estimated to be available for any year that remain unused at the end of the year may be carried forward for use in any subsequent state fiscal year.

*Background:* The state revolving loan funds (SRFs) are administered jointly by the Budget Agency and IDEM with IDEM responsible for the nonfinancial aspects of the programs and the Budget Agency responsible for the financial aspects. The SRF programs provide low interest loans to political subdivisions for wastewater projects and to political subdivisions and private and non-profit entities for drinking water projects. The total SRF loan portfolio for waste water and drinking water included 226 loans for over \$1 B as of January 2002.

The number of SRF loans has increased in recent years. After closing an average of about 7 loans for \$33 M per year from FY92 to FY98, the Budget Agency closed 31 loans for \$170 M in FY99 and 81 loans for \$354 M in FY 2000. The Budget Agency closed at least 26 loans for \$102 M in FY 2001.

The Supplemental Fund is used to make grants and loans. The majority are grants. Prior to 1995, Build Indiana Funds were used to fund projects. In 1995, \$28.2 M were appropriated to the fund. In 1999, \$40 M were appropriated to the fund. Interest rates for loans ranged from 0% to 4%.

Currently, four budget analysts at the State Budget Agency administer the State Revolving Loan Funds and the Supplemental Fund. Three analysts are paid through the Indiana Transportation Finance Authority. The fourth analyst serves as a consultant under contract. Costs for the four analysts equal about \$160,000 per year. Approximately ten staff administer the SRF program for IDEM.

**Explanation of State Revenues:** (Revised) SECTION 12 of the bill will have a fiscal impact upon IDEM. As of Jan. 31, 2002, 113 NPDES permits had not been public noticed and were administratively extended. Including permits on public notice, the total number of permits equaled 166. Subsection (b) refers to a refund of a permit *application* fee for renewal of an administratively extended major NPDES permit or a minor individual NPDES permit. (IC 13-18-20-12 sets the application fee for a renewal of an NPDES permit at only \$50.) Subsection (c) provides a formula for calculating a refund assessed under IC 13-18-20-13, which is for NPDES *annual* fees. Assuming that SECTION 12 establishes a provision for a refund of an *annual* fee, the refund formula would result in a refund of up to 25.5% of the annual NPDES fees for those permits that are administratively extended and have not been approved or denied by the deadline of July 1, 2003, as established in subsection (a). The number of permits that will be administratively extended and still pending on July 1, 2003, is indeterminable. However, the total annual fees paid in 2001 by the 166 NPDES permittees was \$1,309,846. Applying 25.5% of that figure provides an estimated maximum refund of \$334,011 that could be taken out of the Environmental Management Permit Operation Fund NPDES Account to pay for the refunds.

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:** (Revised) Providing that the funds may be used by private entities for additional projects and providing additional uses of the funds could affect revenue available for projects currently allowed political subdivisions.

**State Agencies Affected:** Budget Agency, Legislative Services Agency, the Department of Environmental Management, Treasurer of State, and the State Board of Finance.

**Local Agencies Affected:** Political Subdivisions.

**Information Sources:** Mike Landwer, Rich Emery, and Matt Martin, State Budget Agency and State Revolving Loan Program, 232-0759; Erika Seydel Cheney, Director of the Office of Business and Legislative

Relations, IDEM (317) 232-8598.